Sunday convenience in the particular community. *Commonwealth* v. *Louisville & Nashville R. Co.*, 80 Ky. 291; *Yonoski* v. *State*, 79 Ind. 393, 396; *McGatrick* v. *Wason*, 4 Oh. St. 566, 573. Hence what may not be a necessity in one community at one time, may be consistently held a "necessity" in other communities, or in the same community at other times. Compare *Commonwealth* v. *Jeandell*, 2 Grant's Cases (Pa.) 506, with *Augusta, etc. R. Co.* v. *Renz*, 55 Ga. 126, 128; and *State* v. *Goff*, 20 Ark. 289, with *State* v. *Turner*, 67 Ind. 595. But if the full benefits of a service can be obtained by week-day activity exclusively, such activity cannot be a Sunday necessity. *Louisville & Nashville R. Co.* v. *Commonwealth*, 92 Ky. 114, 17 S. W. 274; *Arnheiter* v. *State*, 115 Ga. 572, 41 S. E. 989. As to a newspaper, however, though all the news of the week can be compressed into one issue, news a day late has lost so great a part of its value that daily news is undeniably a commercial necessity. Still a community may have a different standard of needs for Sundays as compared with week days. *State* v. *James*, 81 S. C. 197, 200, 62 S. E. 214. *Cf. Commonwealth* v. *Jeandell*, *supra*. Thus, since the law expressly forbids commercial activity on Sundays, Sunday newspapers cannot be justified on commercial grounds. And until the present case, Sunday papers have been uniformly held improper. *Smith* v. *Wilcox*, 24 N. Y. 353; *Handy* v. *Globe Pub. Co.*, 41 Minn. 188, 42 N. W. 872; *Sentinel Co.* v. *Meiselbach Motorwagon Co.*, 144 Wis. 224, 128 N. W. 861; *Knapp & Co.* v. *Culbertson*, 152 Mo. App. 147, 133 S. W. 55. However, the growth of approved Sunday activities and the increase of popular interest in world events furnish other grounds for considering them necessary. Besides, the courts in determining what is a "necessity," have considered not only differences between communities and changing conditions within a community but the general opinion of the public as to legitimate Sabbath occupations. See *State* v. *James*, *supra*, at 200; HARRIS, SUNDAY LAWS, § 98. *Cf. Edgerton* v. *State*, 67 Ind. 588. And the fact that repeated prosecution still leaves the Sunday paper a universal factor in American life indicates the approval of public opinion.

TAXATION — INHERITANCE TAX — APPLICATION TO PROPERTY HELD IN TENANCY BY THE ENTIRETY. — A wife conveyed certain realty to a third person, who conveyed forthwith to her husband and herself in fee as tenants by the entirety. The husband dies and his executors petition the probate court for instructions to determine whether his half interest of the property was taxable under the Massachusetts inheritance tax. *Held*, that the property was not taxable. *Palmer* v. *Mansfield*, 110 N. E. 283 (Mass.).

The New York Court of Appeals, three judges dissenting, has recently reached the opposite conclusion. *Matter of Klatzl*, 216 N. Y. 83. For a criticism of the New York decision see 29 HARV. L. REV. 201. In the present case, however, the preliminary conveyance to a third person avoids technical difficulties involved in the New York case, as to conveyance by the grantor to himself.

TAXATION — PARTICULAR FORMS OF TAXATION — THE INCOME TAX — SIXTEENTH AMENDMENT. — The Tariff Act of 1913 levied a graduated tax on all incomes over $4,000. The plaintiff, a stockholder in the defendant corporation, brought a bill to enjoin the corporation from complying with the requirements of the act, on the ground that the tax was not authorized by Sixteenth Amendment, and was therefore void as a direct tax levied without apportionment. *Held*, that the tax is constitutional. *Brushaber* v. *Union Pacific R. R. Co.*, Sup. Ct. Off., No. 146.

For a discussion of the questions involved, see NOTES, p. 536.

TORTS — DEFENSES — RIGHT TO DESTROY PROPERTY AS REASONABLE PROTECTION AGAINST OWNER'S WRONG — KILLING DOG WHO HAD BITTEN

TO ASCERTAIN RABIES. — The plaintiff's dog bit the defendant's child. The defendant, fearing rabies, offered to buy the dog and have it tested by the Pasteur Institute. On the plaintiff's refusing to sell the dog, the defendant entered his house through an unlocked window, while the members of the household were absent, and killed the dog, removing the head, which he sent to the Institute, where it was found to be a healthy specimen. The plaintiff now sues for the value of the dog. *Held*, that he may recover. *Allen* v. *Camp*, 70 So. 290 (Ala.).

One who acts reasonably to avert harm threatened by the wrongful act of another, may recover from the latter for injury incurred while so acting. *Eckert* v. *Long Island R. Co.*, 43 N. Y. 502; *La Duke* v. *Exeter Township*, 97 Mich. 450, 56 N. W. 851. And if he injure or destroy property as a necessary or reasonable measure of protection against danger resulting from the tort of the owner thereof, he is not liable in damages. *Haley* v. *Colcord*, 59 N. H. 7; *Russel* v. *Barrow*, 7 Port. (Ala.) 106. Thus, it is well settled that the killing of a dog in defense of person or property is justified. *Credit* v. *Brown*, 10 Johns. (N. Y.) 365; *Reynolds* v. *Phillips*, 13 Ill. App. 557. However, the killing must be strictly a defensive measure. *Morris* v. *Nugent*, 7 C. & P. 572; *Perry* v. *Phipps*, 32 N. C. 259. The same reasoning on which such a killing may be justified, it is submitted, will justify a trespass reasonably incidental thereto. Especially is this so since the owner of a dog is liable for its attack upon a trespasser. *Woolf* v. *Chalker*, 31 Conn. 121; *Loomis* v. *Terry*, 17 Wend. (N. Y.) 497. In the principal case, though the killing was not in defense against the dog's attack, it was clearly a measure of protection against the injurious effects of his bite. However, it may be questioned whether the trespass and the killing of the dog was a reasonably necessary measure of protection. See (1911) 1 HANDBUCH DER TECHNIK UND METHODIK DER IMMUMTÄTO-FORSCHUNG, 442.

TORTS — UNUSUAL CASES OF TORT LIABILITY — KNOWINGLY AND UNLAWFULLY CAUSING THE PLAINTIFF TO EXPEND MONEY TO PREVENT LIABILITY UNDER AN INDEMNITY CONTRACT. — The plaintiff contracted with a surety to indemnify him for any loss incurred as surety on a bond for X.'s appearance to answer a criminal charge. The defendant, although he knew of the plaintiff's contract, persuaded X. to leave the jurisdiction, fearing that X., if he remained, might incriminate him. The plaintiff thereupon reasonably expended money to procure X.'s return, in order to avert liability under his contract. *Held*, that he may recover the sum so expended. *Wakin* v. *Wakin*, 180 S. W. 471 (Ark.).

In the principal case there was clearly no direct contractual relationship between X. and the plaintiff. And, although X. may have contracted with the surety not to subject the latter to liability, the plaintiff cannot be subrogated to the contractual rights of the surety, since he has not yet incurred an obligation to indemnify him. See VANCE, INSURANCE, 427. Hence the plaintiff cannot recover upon the strict principle of *Lumley* v. *Gye* for wrongfully inducing a breach of contract. However, that an action of tort is without precedent is in itself no bar. *Harris* v. *Nashville Trust Co.*, 128 Tenn. 573, 162 S. W. 584. In the principal case the defendant knew both of the plaintiff's contract, and that his act would cause the plaintiff either to suffer the loss now sued for, or to pay the indemnity — an even greater loss. Thus, since a tortfeasor intends to cause whatever harm he knows will result from his act, the defendant's injury to the plaintiff was intentional. See 28 HARV. L. REV. 511. See O. W. Holmes, "Privilege, Malice and Intent," 8 HARV. L. REV. 1. And the trend of modern law is, rightly, to the position that the intentional infliction of harm is an actionable wrong unless justified. *McNary* v. *Chamberlain*, 34 Conn. 384. See 27 HARV. L. REV. 394; SALMOND, TORTS, 2 ed., 497. As the carrying out of his object involved the unlawful act of aiding X. to escape